



University of Bayreuth
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www.geistiges-eigentum.info



Teaching Patent Law – Between Natural Sciences and Law

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Queen Mary, University of London
European Intellectual Property Teachers' Network
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Teaching Patent Law



Technology-specific law problems

- Advanced learners
- Examples: **gene patents**
nanotechnology

Parameters

- Law: national and EPC
- Listeners: law students
- Subject: „core“ patent law (substantive law: patentability requirements, scope of protection)

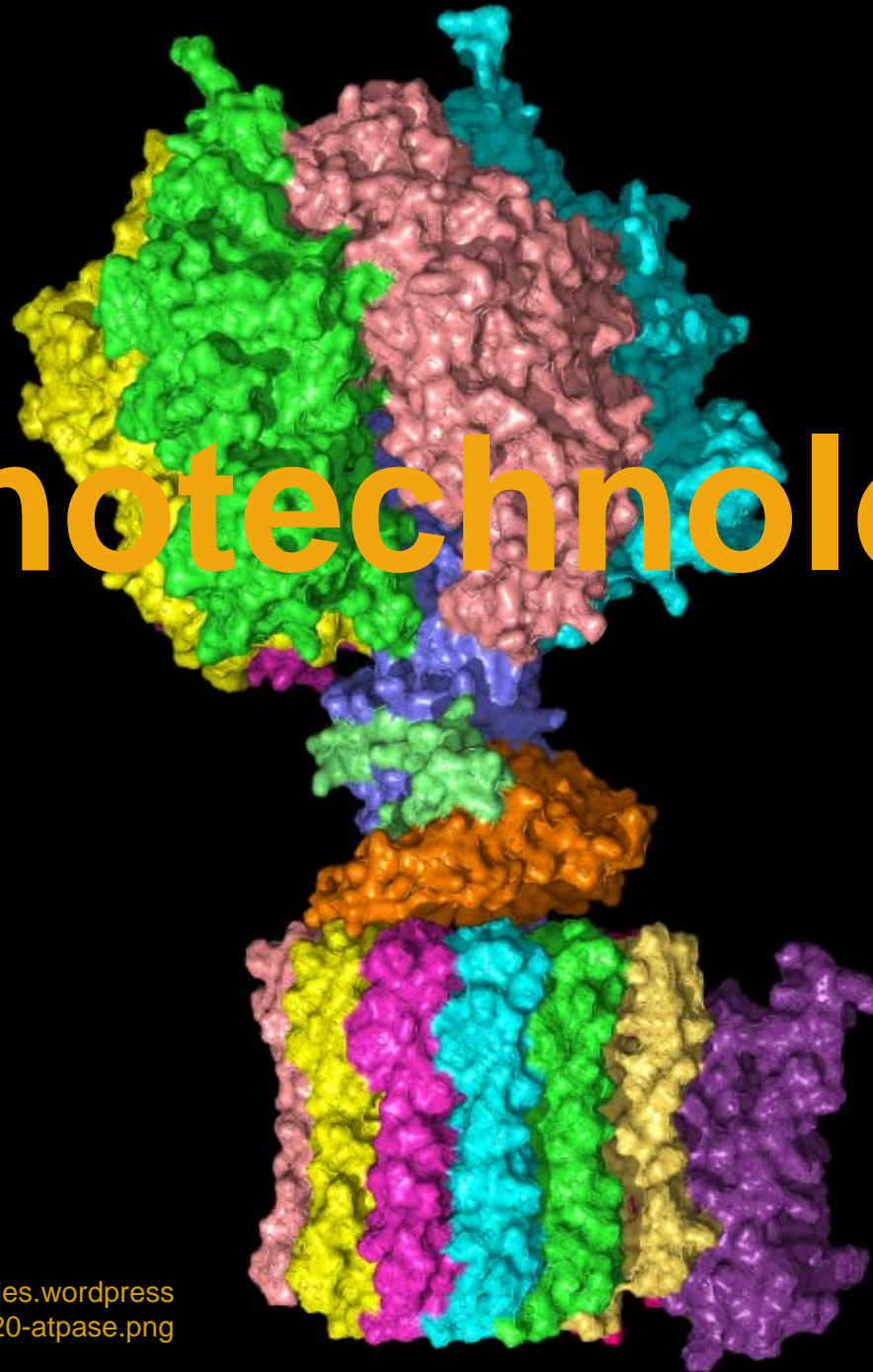


Three Steps



-
- Technology
 - Legal principles
 - Legal problems

Nanotechnology

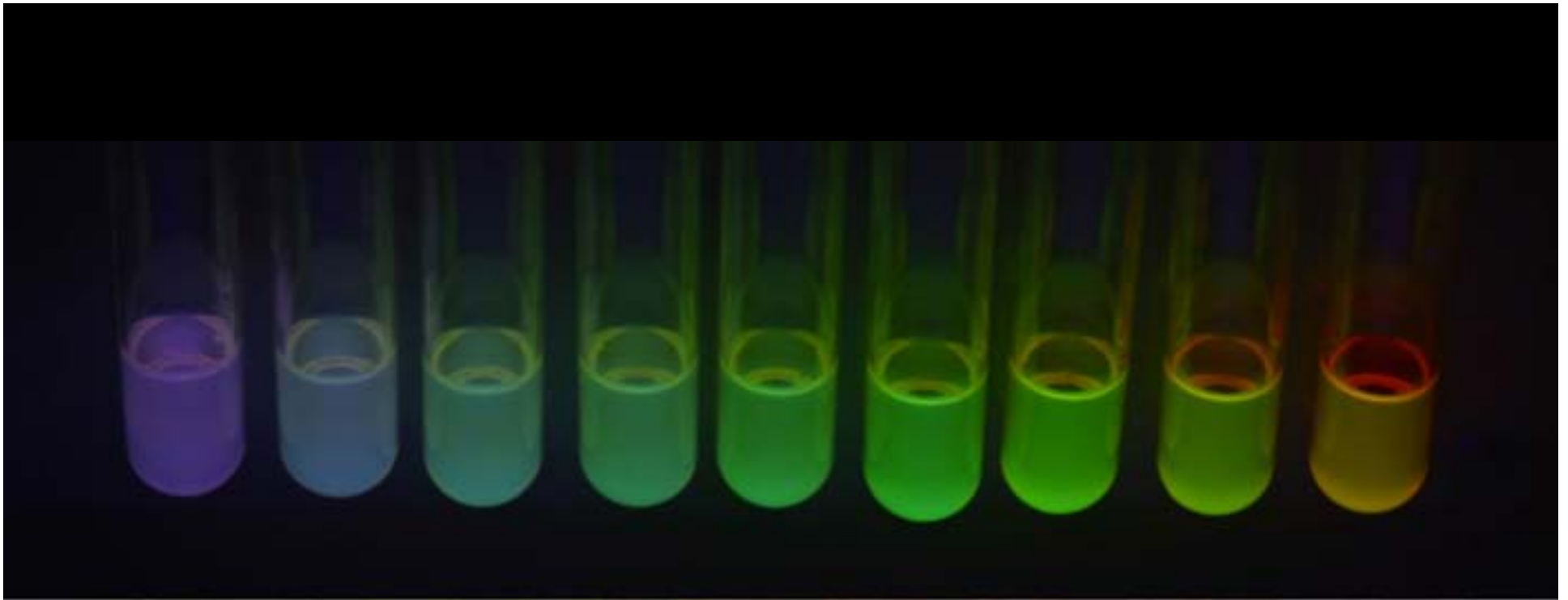


<http://giantshoulders.files.wordpress.com/2007/10/20071020-atpase.png>

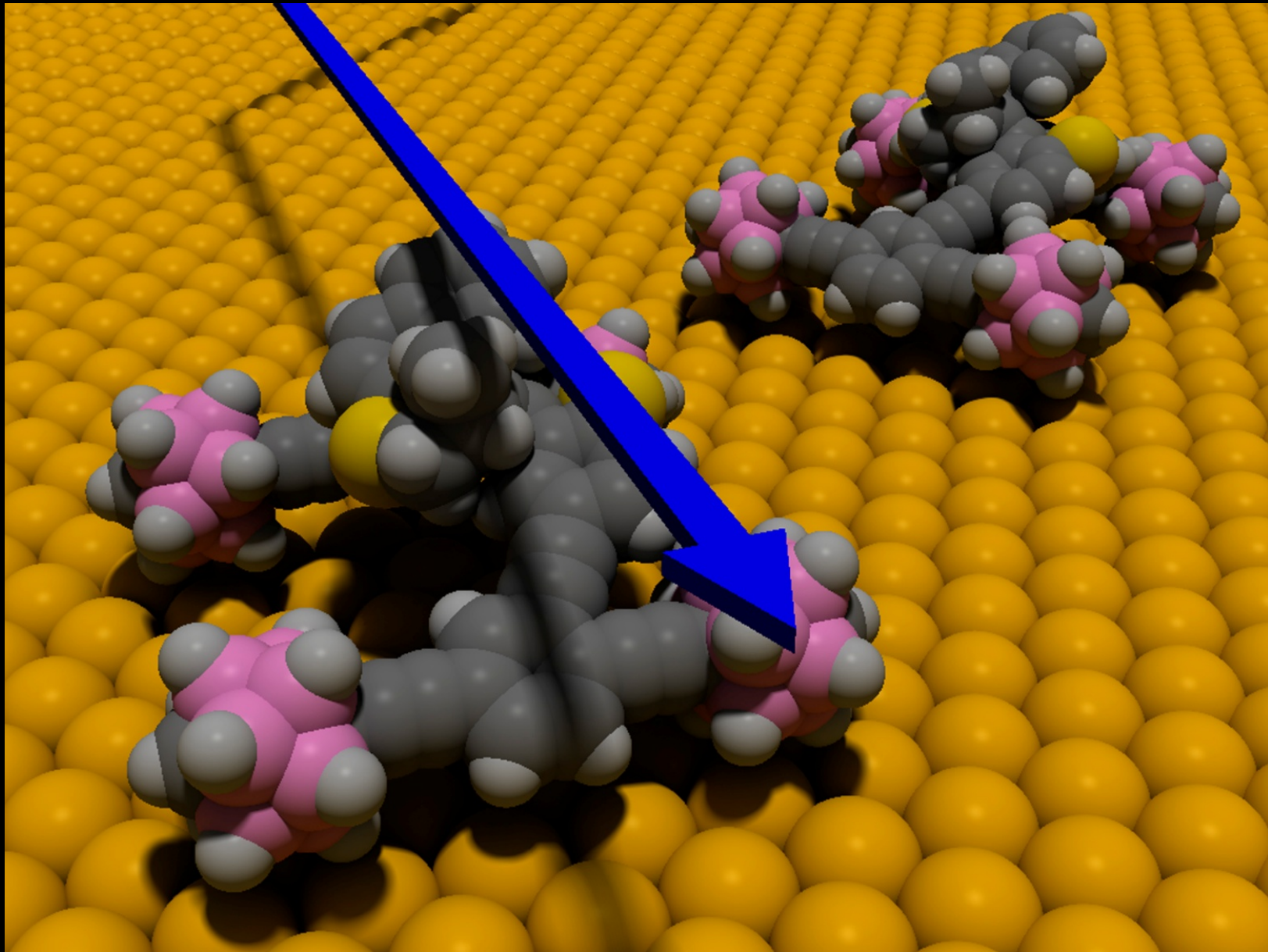
What is Nanotechnology?

[...] the term nanotechnology covers entities with a controlled geometrical size of at least one functional component below **100 nanometers** (nm) in one or more dimensions susceptible to make physical, chemical or biological **effects** available **which are intrinsic to that size**.

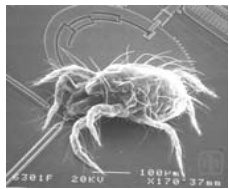
(EPO, Classification Y01N)



http://mrsec.wisc.edu/Edetc/background/quantum_dots/images/blacklight-700.jpg



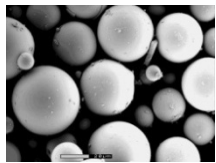
www.jmtour.com/images/Nanocars/MotorizedNanocar3Dimage600dpi.jpg



Dust mite
↔
200 μm



Ant
~ 5 mm

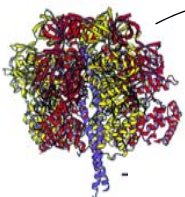


Fly ash
~ 10-20 μm

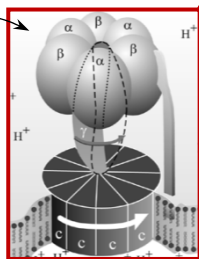


Human hair
~ 60-120 μm wide

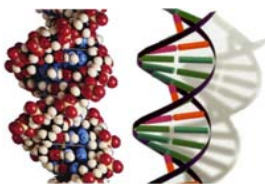
Red blood cells
(~7-8 μm)



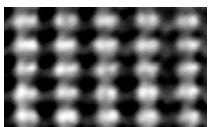
~10 nm diameter



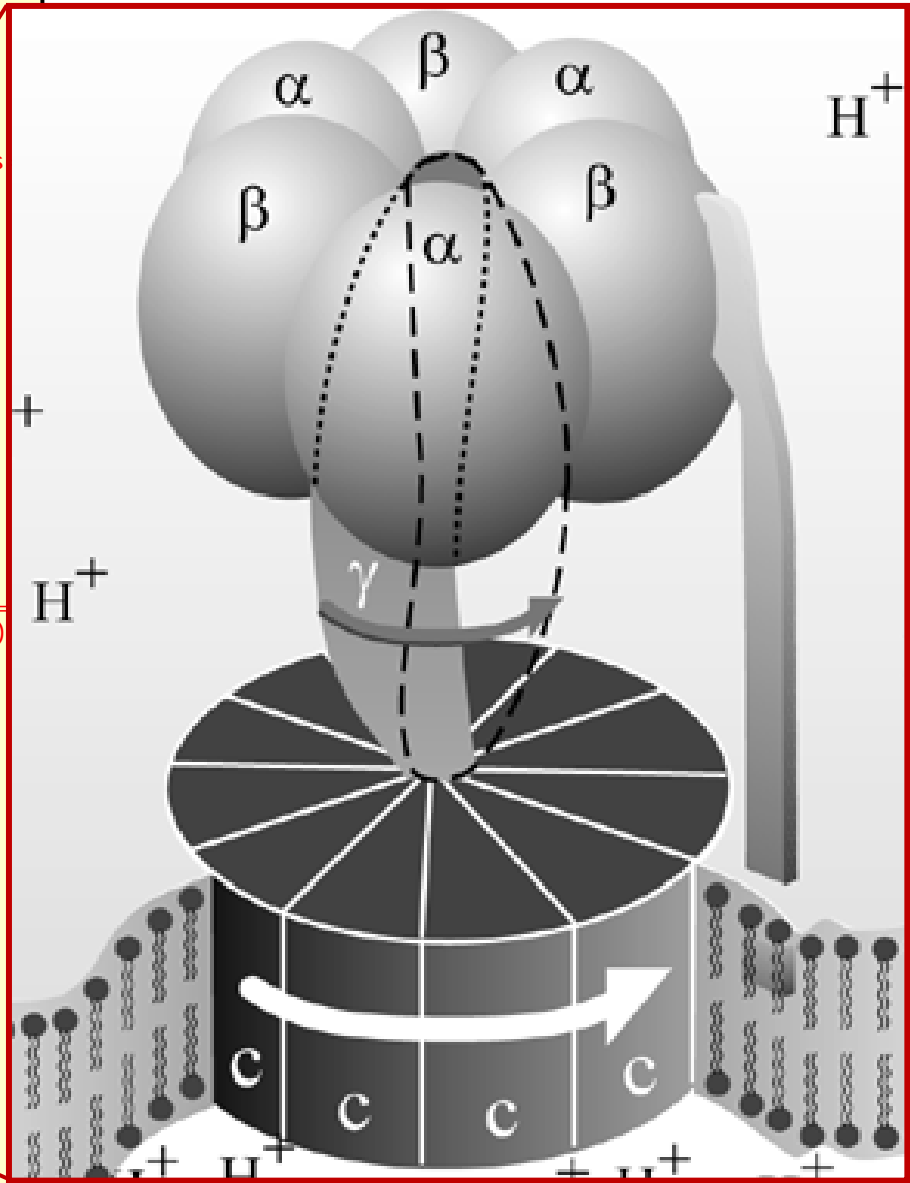
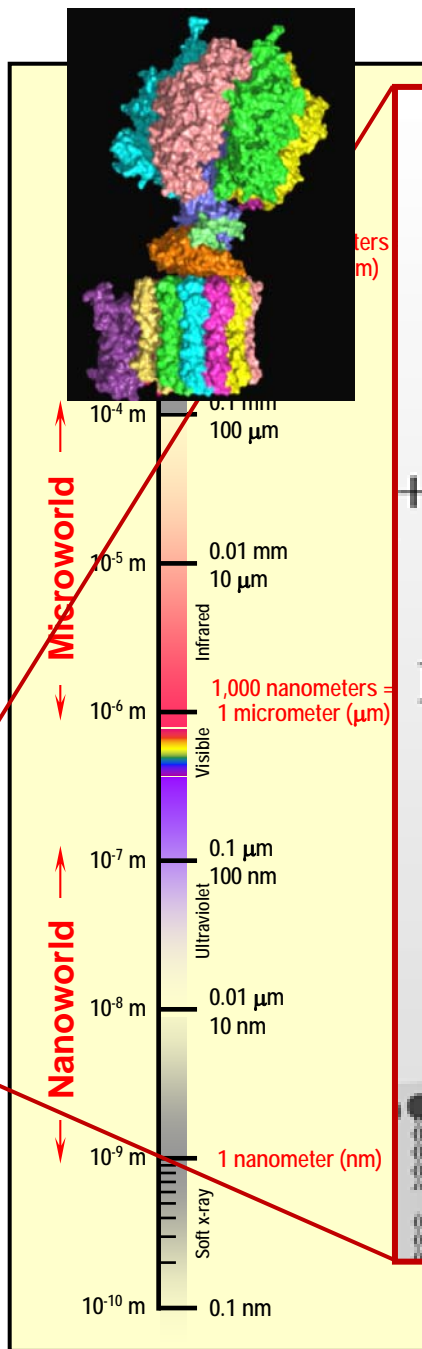
ATP synthase



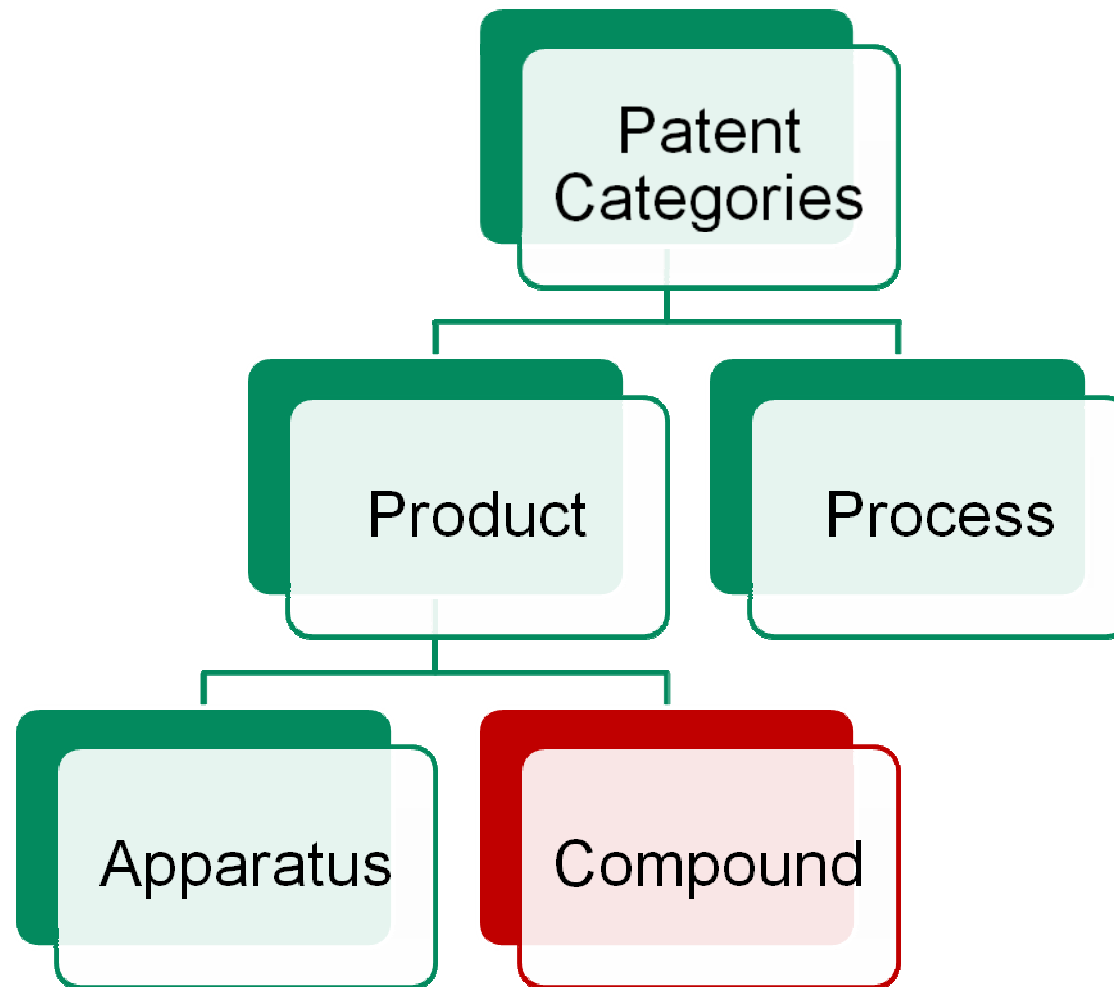
DNA
~2-1/2 nm diameter



Atoms of silicon
spacing 0.078 nm



Basic: Claim Categories



cf Art. 64 (2)
EPC

cf Art. 53 lit. c
EPC

Problem: Compound versus Apparatus Claims

Art. 53 EPC

Exceptions to patentability

European patents shall not be granted in respect of:

(...)

(c) Methods for treatment of the human or animal body by surgery or therapy and diagnostic methods practised on the human or animal body; this provision shall not apply to **products**, in particular **substances or compositions**, for use in any of these methods.

Art. 54 EPC

Novelty

(...)

(4) Paragraphs 2 and 3 shall not exclude the patentability of any **substance or composition**, comprised in the state of the art, for use in a method referred to in Article 53(c), provided that its use for any such method is not comprised in the state of the art.

(5) Paragraphs 2 and 3 shall also not exclude the patentability of any **substance or composition** referred to in paragraph 4 for any specific use in a method referred to in Article 53(c), provided that such use is not comprised in the state of the art.



Teaching Patent Law



Technology-specific law problems

- Show students current research topics
- Stir students' interest in patent law
- Are fun!

Three steps

- Give law students useful background knowledge
- Repeat basic legal knowledge
- Consolidate legal knowledge by discussing legal problems



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Thank you for your attention!